

III. REMARKS

Claims 16, 32, 37 and 55 have been withdrawn for pertaining to a non-elected invention. With respect to claims 37 and 55, which respectively depend upon independent claims 33 and 51, Applicants contend that when independent claims 33 and 51 are allowed then dependent claims 37 and 55 must be rejoined with the allowed claims in accordance with MPEP § 821.04. Claims 1-15, 17-31, 33-36, 38-54 and 56-76 have been examined on the merits.

The Abstract of the Disclosure has been amended to comply with the requirements of 37 C.F.R. § 1.72.

Claim 50 has been canceled without prejudice. Claims 1, 8, 15, 17, 24, 31, 33, 35-37, 47, 51, 53-55 and 67-76 have been amended. Specifically, independent claim 1 has been amended to delete the word “optionally” and to include the phrase “--wherein the linking server enables a plurality of formats to stream without having to deploy one or more reference files-- as supported on page 15, lines 12-23, of the specification as originally filed. Claim 1 has additionally been amended to replace the phrase “and/or” with its longhand English equivalent. Claims 8 and 24 have been amended to delete the phrase “without limitation” and replace it with “--formats selected from the group consisting of--.

Independent claims 15, 17 and 31 have been amended in a manner similar to that of independent claim 1. Independent claim 33 has been amended to incorporate the subject matter of dependent claim 50, and to additionally recite “--wherein the linking server enables a plurality of formats to stream without having to deploy one or more reference files-- as supported on

page 15, lines 12-23, of the specification as originally filed. Claim 33 has also been amended to change “at least one server responsively interfaced” to --at least one ~~remote~~ server responsively interfaced...-- as supported on page 46, lines 1-13, of Applicants’ specification as originally filed, and to replace the phrase “and/or” with its longhand English equivalent.

Claims 35-37, 47, 53-55 have been amended to address a minor informality and not for a reason related to patentability. The present amendment has no further limiting effect on the scope of these claims.

Independent claim 51 has been amended to recite “receiving over the computer network from the client workstation a request for at least one of information and information services, wherein the connection processor receives the request for the at least one of information and information services, and wherein the connection processor is a linking server enabling a plurality of formats to stream without having to deploy one or more reference files” as supported on page 15, lines 12-23, and on page 45, lines 17-25, of Applicants’ specification as originally filed. Claim 51 has additionally been amended to improve grammar and clarity.

Independent claim 67 has been amended to recite “wherein the connection processor is a linking server enabling a plurality of formats to stream without having to deploy one or more reference files, and said request specifies at least one media server” as supported on page 15, lines 12-23, and on page 17, lines 3-10, of Applicants’ specification as originally filed. Independent claims 68 and 69 have been amended in a manner similar to that of independent claim 67.

Independent claim 70 has been amended to recite “uploading at least one of information and information services to at least one media server” and “transmitting said generated requests over the computer network to the at least one media server” as supported on page 17, lines 3-10, of Applicants’ specification as originally filed. Claim 70 has also been amended to improve grammar and to additionally recite --wherein the connection processor is a linking server enabling a plurality of formats to stream without having to deploy one or more reference files-- as supported on page 15, lines 12-23, of Applicants’ specification as originally filed.

Independent claim 71 has been amended to improve grammar and to additionally recite -
-wherein the linking server enables a plurality of formats to stream without having to deploy one or more reference files-- as supported on page 15, lines 12-23, of Applicants’ specification as originally filed. Independent claim 72 has been amended to improve grammar and to additionally recite --wherein the linking server enables a plurality of formats to stream without having to deploy one or more reference files-- as supported on page 15, lines 12-23, of Applicants’ specification as originally filed. Claim 72 has also been amended to recite “computer program code stored on computer readable memory is transmitted as a computer data signal embodied in a carrier wave, the computer program code comprises” as supported on page 67, lines 8-24, of Applicants’ specification as originally filed.

Independent claim 73 has been amended to improve grammar and to additionally recite -
-and the connection processor is a linking server enabling a plurality of formats to stream without having to deploy one or more reference files-- as supported on page 15, lines 12-23, of Applicants’ specification as originally filed. Independent claim 74 has been amended to

improve grammar and to recite “~~computer program code stored on a computer readable memory is transmitted as a computer data signal embodied in a carrier wave, the computer program code comprises~~” as supported on page 67, lines 8-24, and to additionally recite --wherein the connection processor is a linking server enabling a plurality of formats to stream without having to deploy one or more reference files-- as supported on page 15, lines 12-23, of Applicants’ specification as originally filed.

Independent claim 75 has been amended to improve grammar and to additionally recite -
-wherein the connection processor is a linking server enabling a plurality of formats to stream without having to deploy one or more reference files-- as supported on page 15, lines 12-23, of Applicants’ specification as originally filed, and to recite “generating by the connection processor another request for at least one media server” as supported on page 17, lines 3-10, of Applicants’ specification as originally filed. Independent claim 76 has been amended to improve grammar and to additionally recite --wherein the connection processor is a linking server enabling a plurality of formats to stream without having to deploy one or more reference files-- as supported on page 15, lines 12-23, of Applicants’ specification as originally filed, and to recite “a third program code for generating by the connection processor another request for at least one media server” as supported on page 17, lines 3-10, of Applicants’ specification as originally filed.

A. The Invention

The present invention pertains broadly to a method and system for delivering and streaming multi-media content over the Internet or other computer network. In particular, in accordance with an apparatus embodiment of the present invention, a system for delivering streaming multi-media content is provided that includes the features recited in independent claim 1. In accordance with another apparatus embodiment of the present invention, a system is provided that includes the features recited in independent claim 15. In accordance with yet another apparatus embodiment of the present invention, a system is provided that includes the features recited in independent claim 33. In accordance with still another apparatus embodiment of the present invention, a system is provided that includes the features recited in independent claim 67. In accordance with another apparatus embodiment of the present invention, a system is provided that includes the features recited in independent claim 69. In accordance with still another apparatus embodiment of the present invention, a system is provided that includes the features recited in independent claim 72. In accordance with yet another apparatus embodiment of the present invention, a system is provided that includes the features recited in independent claim 74. In accordance with another apparatus embodiment of the present invention, a system is provided that includes the features recited in independent claim 76.

In accordance with a method embodiment of the present invention, a method of processing requests for multi-media content is provided that includes the steps recited by independent claim 17. In accordance with another method embodiment of the present

invention, a method is provided that includes the steps recited by independent claim 31. In accordance with still another method embodiment of the present invention, a method is provided that includes the steps recited by independent claim 51. In accordance with yet another method embodiment of the present invention, a method is provided that includes the steps recited by independent claim 68. In accordance with still another method embodiment of the present invention, a method is provided that includes the steps recited by independent claim 70. In accordance with another method embodiment of the present invention, a method is provided that includes the steps recited by independent claim 71. In accordance with yet another method embodiment of the present invention, a method is provided that includes the steps recited by independent claim 73. In accordance with another method embodiment of the present invention, a method is provided that includes the steps recited by independent claim 75.

Various other method and apparatus embodiments, in accordance with the present invention, are recited by the dependent claims.

An advantage of the methods and apparatuses of the present invention over prior art methods and apparatuses is that the methods and apparatuses of the present invention have the feature that they employ a “linking server” that enables “a plurality of formats to stream without having to deploy one or more reference files.” Thus, the present invention utilizes a linking server to facilitate the streaming of media-content in a plurality of formats and does not have to rely upon the application of reference files in order to achieve streaming of media-content in a plurality of formats.

B. The Rejections

Claims 72, 74 and 76 stand rejected under 35 U.S.C. § 101 as unpatentable because the claims allegedly recite non-patentable subject matter.

Claims 1-15, 17-31, 33-36, 38-54 and 70-76 stand rejected under 35 U.S.C. § 112, second paragraph, as indefinite.

Claims 1, 2, 4-11, 13-15, 33-36, 38, 40-43, 45-47, 49, 50, 67, 68 and 71-76 stand rejected under 35 U.S.C. § 102(e) as anticipated by Hans (U.S. Patent Application Publication 2002/0120577 A1, hereafter the “Hans Publication”).

Claims 17, 18, 20-31, 51-54 and 57-66 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the Hans Publication in view of RFC 959 (File Transfer Protocol, Postel et al., October 1985, hereafter, “RFC 959 Document”). Claim 69 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the Hans Publication in view of Kenner (U.S. Patent 6,421,726 B1, hereafter, the “Kenner Patent”). Claim 70 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the Hans Publication in view of the RFC 959 Document and the Kenner Patent. Claims 3 and 39 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the Hans Publication in view of Stewart (U.S. Patent Application Publication 2002/087707, hereafter the “Stewart Publication”). Claims 19 and 56 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the Hans Publication in view of the RFC 959 Document, and further in view of the Stewart Publication. Claims 12, 44 and 48 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the Hans Publication.

Applicants respectfully traverse the Examiner's rejections and request reconsideration of the above-captioned application for the following reasons.

C. Applicants' Arguments

Claims 1-15, 17-31, 33-49 and 51-76 are now in compliance with 35 U.S.C. § 112.

i. The Section 101 Rejection

The Examiner contends that claims 72, 74 and 76 recite non-statutory subject matter because these claims pertain to "computer data signals embodied in carrier waves" (Office Action, dated September 13, 2006, at 9, lines 1-8). However, the Examiner has provided no support for this bare contention; therefore, the Examiner has not met his burden to establish a prima facie case of unpatentability under 35 U.S.C. § 101. Furthermore, the Examiner's contention is incorrect as a matter of law for the following reasons.

First, the U.S. Supreme Court has held that carrier waves employed in the transmission of information is patentable subject matter. C.f. Dolbear v. American Bell Telephone Co., 126 U.S. 1 (1888)(U.S. Supreme Court upheld claim 5 of U.S. Patent 174,465, which pertains to a method of transmitting information via carrier waves). In this case, claims 72, 74 and 76 have been amended to recite "in a system... computer program code stored on computer readable memory is transmitted as a computer data signal embodied in a carrier wave, wherein the computer program code comprises...." The present claims 72, 74 and 76 now pertain to a

system in which a carrier wave is transmitted, which falls squarely within the scope of patentable subject matter (See, c.f., claim 1 of U.S. Patent 174,465).

Second, claims 72, 74 and 76 now recite “computer program code stored on computer readable memory...wherein the computer program code comprises...,” which pertains to computer code stored on a computer readable medium and is statutory subject matter. See MPEP § 2106.01.

For all of the above reasons, claims 72, 74 and 76 recite statutory subject matter in compliance with 35 U.S.C. § 101.

ii. The Section 102(e) Rejection

Anticipation under 35 U.S.C. § 102 requires showing the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick, 221 U.S.P.Q. 481, 485 (Fed. Cir. 1984). In the present case, the Examiner has failed to establish a prima facie case of anticipation against the instant claims because the Hans publication does not teach, or suggest, a “linking server” that “enables a plurality of formats to stream without having to deploy one or more reference files” as recited by Applicants’ claims.

iii. The Hans Publication

The Hans Publication discloses “managing access to digital content” such as may be used to license digital content (See Abstract of the Hans Publication). More specifically, the

Hans Publication discloses a digital content access management system that enables users to register previously owned digital content and, subsequently, allows users to access the registered content using any electronic device that is connected to the system (See Abstract). The Hans Publication further discloses that digital content may be pushed or pulled from any electronic system that is connected to a network--no matter where it is located--to any other electronic system that is connected to a network (See Abstract).

The Hans Publication also discloses a business model, as well as a system and a method for implementing this business model, wherein payments are made to content providers upon registration of previously owned digital content (See Abstract).

However, the Hans Publication does not teach, or even suggest, a “linking server” that “enables a plurality of formats to stream without having to deploy one or more reference files” as recited by Applicants’ independent claims 1, 15, 17, 31, 33, 51 and 67-76. On the contrary, the Hans Publication discloses only conventional servers, such as content management server (26), (paragraph 0025), which a person of ordinary skill in the art would immediately realize deploys one or more reference files in order to enable streaming of digital content for a plurality of formats.

For all of the above reasons, the Hans Publication does not anticipate the subject matter of independent claims 1, 15, 17, 31, 33, 51 and 67-76.

iii. The Section 103 Rejections

A prima facie case of obviousness requires a showing that the scope and content of the

prior art teaches each and every element of the claimed invention, and that the prior art provides some teaching, suggestion or motivation to combine the references to produce the claimed invention. In re Oetiker, 24 U.S.P.Q.2d 1443 (Fed. Cir. 1992); In re Vaeck, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). In this case, the Examiner has failed to establish a prima facie case of obviousness against independent claims 1, 15, 17, 31, 33, 51 and 67-76 because neither the Hans Publication, the RFC 959 Document, the Kenner Patent nor the Stewart Publication, teach or even suggest a “linking server” that “enables a plurality of formats to stream without having to deploy one or more reference files.”

iv. The Hans Publication

As discussed above, the Hans Publication does not teach, or suggest, a “linking server” that “enables a plurality of formats to stream without having to deploy one or more reference files” as recited by independent claims 1, 15, 17, 31, 33, 51 and 67-76. Therefore, the Hans Publication cannot render obvious the subject matter of claims 12, 44 and 48.

Furthermore, the Examiner admits that the Hans Patent is silent with respect to the details regarding how digital content ends up at a provider node (16), and does not disclose that the server software utilizes Microsoft ASP and VBScript (Office Action, dated September 13, 2006, at 19, lines 1-3, and at 20, lines 6-7). The Examiner also admits that the Hans Publication is silent with respect to how the content manager (11) chooses the content provider node (16), (Office Action, dated September 13, 2006, at 25, lines 3-6). The Examiner further

admits that the Hans Publication does not teach, or suggest, the manner of specifying return links (Office Action, dated September 13, at 27, lines 17-18).

Thus, as admitted by the Examiner, the Hans Publication does not teach, or suggest, (1) “uploading the multi-media content to at least one multi-media content server” as recited by independent claims 17 and 31; (2) “uploading at least one of information and information services to at least one multi-media content server” as recited by independent claim 51; (3) generating “at least one other request responsive to the requirements of a dynamic resource distribution optimization program responsive to changes in network demand for the at least one of information and information services” as recited by independent claim 69; (4) “uploading at least one of information and information services to at least one media server” and “generating at least one other request for the at least one of information and information services responsive to the requirements of a dynamic resource distribution optimization program responsive to changes in network demand for the at least one of information and information services” as recited by claim 70; (5) “said request expressly specifies a communications port...” as recited by claims 3, 19 and 39; (6) “said request for at least one of information and information services does not expressly specify a communications port of said connection processor” as recited by claim 57; (7) “Windows Media™, RealNetworks™, QuickTime™” as recited by claims 8, 10, 24, 26, 44, 46, 61 and 63; and (8) “Visual Basic and Visual Basic Script under Microsoft ASP” as recited by claims 12, 28, 48 and 65.

v. The RFC 959 Document

The RFC 959 Document discloses the “official specification of the File Transfer Protocol.” However, the RFC Document does not teach, or suggest, a “linking server” that “enables a plurality of formats to stream without having to deploy one or more reference files.”

vi. The Kenner Patent

The Kenner Patent discloses a “system and method for selection and retrieval of diverse types of video data on a computer network,” wherein the system and method for the selection and retrieval of various types of video data from distributed delivery sites calls for the deployment of "Smart Mirror" sites throughout a network, each of which maintains a copy of certain data managed by the system (See Abstract of the Kenner Patent). The Kenner Patent discloses that each "Smart Mirror" site maintains copies of the data in several alternative file formats and every user is assigned to a specific delivery site based on an analysis of network performance with respect to each of the available delivery sites (See Abstract). The Kenner Patent further discloses that generalized network performance data is collected and stored to facilitate the selection of additional delivery sites and to ensure the preservation of improved performance in comparison to traditional networks, and that the appropriate file format is automatically selected based on the capabilities of a user terminal making a request for data (See Abstract).

However, the Kenner Patent does not teach, or suggest, a “linking server” that “enables a plurality of formats to stream without having to deploy one or more reference files.”

vii. The Stewart Publication

The Stewart Publication discloses “network protocols for distributing functions within a network” wherein a network protocol distributes control and lookup functions among various network elements and plural servers are permitted to service the same domain name without requiring re-mapping (See Abstract of the Stewart Publication). The Stewart Publication discloses that each client or server is permitted to have a different network quality of service level that is provided by one or more network elements of a network or server quality of service level that is provided by a server (See Abstract).

However, the Stewart Publication does not teach, or suggest, a “linking server” that “enables a plurality of formats to stream without having to deploy one or more reference files.”

viii. The Examiner’s Official Notices

The Examiner has taken “Official Notice” or has asserted subject matter as being “well-known” in the art, and therefore the Examiner has not provided an evidentiary basis for these bare assertions. With respect to the multiple “Official Notices” and/or assertions regarding what the Examiner believes is “well-known” in the art, Applicants object. Rejections must be based on “substantial evidence” and not on bare assertions regarding what the Examiner believes is “common knowledge” or “well-known” in the art. *In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002). Therefore, the Examiner must provide “substantial evidence” in support of his multiple “Official Notices” and bare assertions regarding what is “well-known” in the art or withdraw

those unsupported rejections.

Specifically, the Examiner contends that “Visual Basis and Visual Basis Script under Microsoft ASP,” as recited by claims 28 and 65, were “common knowledge” at the time the invention was made (Office Action, dated September 13, 2006, at 20, lines 5-11). Applicants traverse the Examiner’s assertion on the grounds that it does not provide a proper motivation, supported by “substantial evidence,” for combination with the teachings of other references and it is so broad an assertion as to fail to delineate its scope. Therefore, the Examiner must produce some “substantial evidence” (i.e., a reference) in support of the “common knowledge” assertion or withdraw the rejection of claims 28 and 65.

The Examiner also contends that “Windows Media™, RealNetworks™, or QuickTime™ formats” as recited by claims 44 and 61, were “common knowledge” at the time the invention was made (Office Action, dated September 13, 2006, at 23, lines 1-5). Applicants traverse the Examiner’s assertion on the grounds that it does not provide a proper motivation, supported by “substantial evidence” for combination with the teachings of other references and it is so broad an assertion as to fail to delineate its scope. Therefore, the Examiner must produce some “substantial evidence” (i.e., a reference) in support of the “common knowledge” assertion or withdraw the rejection of claims 44 and 61.

xi. Summary of the Disclosed Subject Matter

Neither the Hans Publication, the RFC 959 Document, the Kenner Patent, the Stewart Publication, nor the Examiner’s multiple “Official Notices” teach, or suggest, a “linking server”

that “enables a plurality of formats to stream without having to deploy one or more reference files” as recited by independent claims 1, 15, 17, 31, 33, 51 and 67-76. Therefore, no combination of these documents and/or alleged teachings is sufficient to establish a prima facie case of obviousness against the instant claims.

III. CONCLUSION

In view of the present amendment, claims 1-15, 17-31, 33-36, 38-49, 1-54 and 56-76 are in compliance with 35 U.S.C. §§ 101 and 112. Furthermore, the Examiner has failed to establish a prima facie case of anticipation under 35 U.S.C. § 102(e) against Applicants’ claims because the Hans Publication does not teach, or suggest, a “linking server” that “enables a plurality of formats to stream without having to deploy one or more reference files.” The Examiner has also failed to establish a prima facie case of obviousness against Applicants’ claims because no combination of the Hans Publication, the RFC 959 Document, the Kenner Patent, the Stewart Publication, nor the Examiner’s multiple “Official Notices” teach, or suggest, a “linking server” that “enables a plurality of formats to stream without having to deploy one or more reference files” as recited by independent claims 1, 15, 17, 31, 33, 51 and 67-76.


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For all of the above reasons, claims 1-15, 17-31, 33-36, 38-49, 1-54 and 56-76 are believed to be in condition for allowance and a prompt notice of allowance is earnestly solicited.

Questions are welcomed by the below-signed attorney for Applicants.

Respectfully submitted,

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